

VZCZCXRO8073

PP RUEHAG RUEHAST RUEHDA RUEHDBU RUEHDF RUEHFL RUEHIK RUEHKW RUEHLA
RUEHLN RUEHLZ RUEHNP RUEHPOD RUEHROV RUEHRSK RUEHSR RUEHVK RUEHYG
DE RUEHAK #0274/01 0511445
ZNR UUUUU ZZH
P 201445Z FEB 09
FM AMEMBASSY ANKARA
TO RUEHC/SECSTATE WASHDC PRIORITY 8843
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE PRIORITY
RUEATRS/TREASURY DEPT WASHDC PRIORITY
RUEAHLA/HOMELAND SECURITY CENTER WASHDC PRIORITY
RUEHC/DEPT OF LABOR WASHDC PRIORITY
RUEAWJA/DEPT OF JUSTICE WASHDC PRIORITY

UNCLAS SECTION 01 OF 06 ANKARA 000274

SENSITIVE
SIPDIS

DEPT FOR: G/TIP, G, INL, DRL, PRM, EUR/SE, EUR/PGI; DEPT
FOR USAID

E.O. 12958: N/A

TAGS: [KTIP](#) [KCRM](#) [PHUM](#) [KWMN](#) [SMIG](#) [KFRD](#) [ASEC](#) [PREF](#) [ELAB](#)

TU

SUBJECT: TURKEY: 9TH ANNUAL TIP REPORT: INVESTIGATION AND
PROSECUTION OF TRAFFICKERS

REF: A. 08 SECSTATE 132759

[1](#)B. 08 ANKARA 1709

[1](#)C. ANKARA 98

[1](#)D. 08 ANKARA 2194

[1](#)1. (U) Sensitive but unclassified. Please protect
accordingly.

[1](#)2. (U) Post's responses are keyed to reftel questions. This
is part 2 of 3 (septels).

INVESTIGATION AND PROSECUTION OF TRAFFICKERS

[1](#)A. (U) Article 80 of the Turkish Penal Code (TPC)
specifically defines human trafficking as a crime and
prescribes penalties for traffickers and their accomplices.
The law covers both internal and transnational forms of
trafficking. Penalties range from eight to twelve years of
imprisonment and, at judicial discretion, an additional
financial penalty equivalent of up to 730 days. (According
to the TPC, a judicial fine is an amount payable to the State
Treasury by the offender, which is calculated, unless
otherwise stated in the law, by multiplying the identified
number of days, which shall be more than five but not more
than 730, with a daily amount that shall be at least twenty
Turkish lira (\$15) or, at most, 100 Turkish lira and shall be
determined having regard to the personal and economic
conditions of the person.) Trafficking crimes are also
prosecuted under statutes on Organized Crime (TPC Article
220), Sexual Assault (TPC Article 102), Mediating for
Prostitution (TPC Article 227), Misuses of Public Duty (TPC
Article 257), Bribery and Extortion (TPC Article 250 and
252), Deprivation of Liberty (TPC Article 109), Threatening
an Individual (TPC Article 106), Money Laundering (TPC
Article 282), and miscellaneous labor and other laws.

TPC Article 80: Human Trafficking (as amended December 19,
2006):

(1) A person who procures or kidnaps persons or who takes or
transports persons from one place to another or who harbors
persons with a view to force them to work or to provide a
service, made them be involved in prostitution or to subject
them to slavery or similar practices or to donate their
organs by exerting threats, pressure, force or violence, by
abusing his authority, by deceit or by obtaining their
consent through taking advantage of the opportunities they
have to control them or of their helplessness shall be
sentenced to imprisonment for a term of eight to twelve years

and a judicial fine imposed equivalent of up to ten thousand days.

(2) In the event of actions which are undertaken for the purposes referred to in the first paragraph and which constitute an offense, the consent of the injured party shall be deemed void.

(3) Where juveniles under eighteen years of age are procured, kidnapped, taken or transported from one place to another or harbored for the purposes referred to in the first paragraph, the perpetrator shall be sentenced to the penalties referred to in the first paragraph, notwithstanding that none of the acts instrumental to the offense has been resorted to.

(4) Security measures shall be taken for legal entities on account of the above-mentioned crimes.

On June 1, 2005, Article 80 replaced the following anti-trafficking statutes in effect since August 3, 2002 (some court cases initiated before the current reporting period continue):

TPC Article 201(b):

(1) Those who provide, kidnap, take or transfer from one place to another and house other individuals with the intention of making them work or serve by force, subject them to slavery or similar treatment, threaten, pressure, use force or coercion to persuade them to give up their bodily organs, use undue influence, secure their consent by deception or by using the desperation of such individuals

ANKARA 00000274 002 OF 006

shall be sentenced to five to ten years of heavy imprisonment and a heavy fine of not less than one thousand lira (\$833).

(2) If the actions that constitute a crime attempted with the intentions laid out in the first paragraph exist, the victim is assumed not to have given his/her consent.

(3) If children below the age of eighteen are provided, kidnapped, taken or transferred from one place to another or housed with the intentions specified in paragraph one, even when no intermediary actions in relation to the crime are committed, the penalties foreseen in paragraph one shall still be applied to the perpetrator.

(4) If the crimes listed in the paragraphs above are committed in an organized manner, the penalties foreseen for the perpetrators shall be doubled.

TPC Article 227: Prostitution:

(1) Any person who encourages a child to become a prostitute, facilitates a child becoming such or supplies or accommodates a child for such purpose, or acts as an intermediary for the prostitution of a child, shall be sentenced to a penalty of imprisonment for a term of four to ten years and judicial fine equivalent of up to five thousand days' imprisonment.

(2) Any person who encourages another to become a prostitute or who facilitates or acts as an intermediary for such or who provides an environment for such a purpose shall be sentenced to a penalty of imprisonment for a term of two to four years and a judicial fine equivalent of up to three thousand days. Earning a living, totally or partially, from the proceeds of prostitution shall be presumed to be an encouragement to prostitution.

(3) Paragraph was annulled by article 45 of the law 5560-06.12.2006 (the Article 80 amendment)

(4) The penalty to be imposed according to the

aforementioned sections shall be doubled where a person is encouraged to engage in acts of prostitution or secures an individual to engage in prostitution through the use of threat, violence, deceit, or by taking advantage of another's desperation.

(5) The penalty to be imposed according to the aforementioned sections shall be increased by one half where the offense is committed by a spouse, direct-antecedents, direct antecedents-in-law, sibling, adopting parent, guardian, trainer, educator, nurse, or any other person responsible for the protection and supervision of a person, or by a public officer or employee who misuses the influence derived from their positions.

(6) The penalty to be imposed according to the aforementioned sections shall be increased by one half where the offense is committed in the course of the activities of a criminal organization.

(7) Legal entities shall be subject to security measures for involvement in these offenses.

(8) Any person who has been forced into prostitution may be given treatment or psychological therapy.

Under Article 4 of the Terrorism Prevention Act, a crime, such as TIP, committed by a terrorist organization can be prosecuted as a terrorist crime. The terrorist PKK, for example, is known to fund its terrorist operations through human trafficking and other transnational crimes.

The Highway Transport Law (July 19, 2003) and the Highway Transport Regulation (February 25, 2004) include provisions that limit the ability of human traffickers to use transport vehicles to traffic persons.

Turkey has adopted the following international conventions:

- ILO Convention 182 (ratified 2001);
- ILO Convention 29 and 105 on Forced or Compulsory Labor (ILO Convention 29 went into effect on January 27, 1998 and

ANKARA 00000274 003 OF 006

ILO Convention 105 on December 21, 1960);

- Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography (ratified May 9, 2002);
- The Protocol to Prevent, Suppress and Punish Trafficking-in-Persons, Especially Women and Children, Supplementing the UN Convention Against Transnational Organized Crime (ratified March 18, 2003).

1B. (U) TPC Article 80 penalties of 8-12 years' imprisonment apply to both traffickers of human beings for purposes of sexual exploitation and/or for labor exploitation.

1C. (U) Labor exploitation can be prosecuted under Article 80, which carries penalties of eight to twelve years imprisonment plus the possibility of an additional judicial fine equivalent to ten thousand days imprisonment (see above). No evidence has been reported to us that Turkey is a forced labor source country. Turkey is not a significant forced labor destination country.

The Ministry of Labor and Social Security (MOL) is authorized to prevent uncontrolled employment of foreign labor and to grant work permits under the Law on Work Permits for Foreigners (number 4817) (effective September 6, 2003).

Under Law 4817, foreigners must be formally permitted to work in Turkey and registered with social security or they and their employers can be subject to a fine. Law 4817 stipulates that employment contracts must be written in Turkish and the language of the foreign employee. The GOT is authorized to reject permits for employment that threaten

"general health and/or morals." MOL undertakes active investigations of illegally employed foreigners during the reporting period. MOL officials have received TIP-detection training; the TNP Foreigners Police, which processes all foreigners apprehended in Turkey, screens illegal foreign workers before deportation for evidence of trafficking.

1D. (U) TPC Part 6 provides varying degrees of penalties for sexual assault, rape, and sexual abuse of adults and minors, as noted below. Penalties may range from two years to life imprisonment, depending upon the circumstances. Penalties for rape can be less or more than penalties for trafficking, depending on the situation. TPC Part 6 is commonly utilized to prosecute traffickers.

Part 6: Offenses Against Sexual Integrity

Article 102: Sexual Assault

(1) The perpetrator who violates the physical integrity of another person by means of sexual conduct shall be imprisoned for a term of two to seven years upon the complaint of the victim.

(2) Where the act is committed by means of inserting an organ or similar object into the body, the perpetrator shall be imprisoned for a term of seven to twelve years. If the act is committed against the spouse, legal investigation and prosecution shall be initiated if the victim lodges a complaint.

(3) If the offense is committed,

- a) Against a person who is physically or mentally incapable of defending him/herself,
- b) By breaching of duties and/or abusing the functions pertaining to the official status,
- c) Against a person of first, second, or third degree blood relation or a relative by marriage,
- d) By using weapons and with the cooperation of more than one person, penalties imposed in accordance with articles above shall be increased by half.

(4) In case excessive violence is exerted on the victim during the commitment of the offense, the perpetrator shall also be punished for deliberate wounding.

(5) In case the offense causes damage to the physical or mental health of the victim, the perpetrator shall be imprisoned for a term of not less than ten years.

ANKARA 00000274 004 OF 006

(6) If, as a result of the crime, the victim enters into a vegetative state or dies, the sentence will be strict life imprisonment.

Article 103: Sexual Abuse of Children

(1) The perpetrator of child abuse shall be imprisoned for a term of three to eight years. Sexual abuse means:

a) any act of a sexual nature against a minor who has not reached fifteen years of age, or, if over fifteen years of age, lacks the competence to perceive the legal meaning and consequences of such acts.

b) sexual acts against other minors depending on use of force, threat, deception, or by any other reason affecting the will of the child.

(2) Where the sexual assault occurs as a result of insertion of an organ or similar object into the body, a penalty imprisonment from eight to fifteen years shall be imposed.

(3) Where the sexual assault is committed by a first, second or third degree blood relative, step-father, the person who has adopted the person concerned, guardian, tutor, teacher, caretaker, or other person in charge of providing health services or who bears the obligation for protection or supervision, or through abuse of the service relation, the penalty to be imposed, in accordance with the above paragraphs, shall be increased by half.

(4) Where the sexual assault is committed against a minor indicated in paragraph 1(a) as a result of force or threat, the penalty to be imposed, in accordance with the above paragraphs, shall be increased by half.

(5) Where the force and compulsion used with the aim of sexual assault lead to aggravated consequences of the offense of deliberate wounding, provisions of the offense of deliberate wounding shall apply additionally.

(6) In case the offense results in damage to the physical or mental health of the victim, the perpetrator shall be imprisoned to strict life imprisonment.

(7) Where the offense leads the victim into a vegetative state or to death, the perpetrator shall be sentenced to strict life imprisonment.

1E. (SBU) ***Complete 2008 law enforcement statistics were unavailable by the reporting deadline. Post will report these statistics in a supplemental cable as soon as they are received. MOJ issued us preliminary data on the first two quarters of 2008, indicating that about 100 traffickers were prosecuted in the first half of 2008 -- a rate comparable to or exceeding last year's. We have heard informally that, through the first three quarters, at least ten prosecutions occurred under the amended Article 80 (8-12 years' imprisonment) and dozens more under related statutes (usually averaging 3-4 years' imprisonment).***

1F. (U) MOJ and MOI (Turkish National Police and Jandarma) have institutionalized TIP-related training in their service training. TNP estimates that TIP-specific training has reached over 5,000 officers since 2004. TNP also participates in training with various countries at the Turkish Academy to Fight Against Drugs and Organized Crime (TADOC) and through the Southeast Europe Cooperation Initiative (SECI). Through an EC-funded project, IOM trained 30 security officials and 40 judges during the summer of 2008 as TIP "trainers." By the end of 2009, these trainers will have trained 300 judges and prosecutors and 290 security officials in, focusing as appropriate, victim identification, national and international regulations, international coordination, victim sensitivity, NGO cooperation, investigative techniques, data collection and database management (ref B). Fifty law enforcement officers have already received this four-day "cascade" training from the new trainers and 40 judges and prosecutors will receive the training during the last week of February 2009.

1G. (SBU) The GOT has concluded MOUs or Protocols on TIP with

ANKARA 00000274 005 OF 006

the following countries: Belarus (2004), Georgia (2005), Ukraine (2005), Moldova (2006), and Kyrgyzstan (2006). GOT and source country officials regularly exchange visits. Turkish law enforcement and judicial authorities cooperate actively with other governments in the investigation and prosecution of trafficking cases. From sustained joint investigations to simple information exchanges, such international cooperation is extensive, and particularly good, according to our contacts, with Ukraine. The GOT has reported to us that it is working with its regional partners to establish English as a lingua franca for information exchange on trafficking cases; requests made in source country languages often require translation that is not readily available. The GOT also organizes and participates

actively in numerous regional conferences and workshops on TIP. For example, the GOT hosted, in partnership with IOM, a judicial assistance seminar in Istanbul November 27-28, 2008.

The goal was to increase the number of victims identified by regional authorities and support the investigation and prosecution of trafficking crime. Representatives from Turkey, Azerbaijan, Belarus, Georgia, Kyrgyzstan, Moldova, Romania, Ukraine and the European Commission participated. The State Minister for Women's Affairs hosted a regional NGO conference on strengthening civil society's contribution to the fight against TIP.

1H. (U) The GOT is prohibited by law from extraditing its own nationals charged with a crime abroad, including trafficking. The universal jurisdiction norm is recognized by the Turkish Criminal Code on the basis of certain offenses and crimes. Included in this norm are migrant smuggling and trafficking in human beings. A foreigner or Turkish trafficker is indictable and punishable in Turkey. The Turkish Minister of Justice may request a trial process be launched in Turkey against an accused person who has already been through the legal system in conjunction with these offenses in another country.

1I. (SBU) The GOT does not tolerate official involvement in trafficking and we have no evidence to suggest such tolerance or involvement at senior levels. However, there were incidents of security officials' involved in TIP.

1J. (SBU) According to data furnished by the TNP, 25 security officials were subject to investigation in 2008 for assisting traffickers, mediating prostitution and/or turning a blind eye to prostitution. One was a first class chief constable; six were superintendents; seven were chief inspectors, inspectors or deputy inspectors. Three were expelled from duty even though criminal charges against two of those three were dropped. Two more have been suspended from duty following an internal investigation, while one has been suspended from duty while the investigation continues. The rest of the investigations are proceeding in #etQ4(QQxP,e1Q;/Quty.

1K. (SBU) Prostitution in Turkey is legal and regulated. Sex workers must have Turkish citizenship; foreign citizens cannot legally practice prostitution. Trafficking, smuggling with the intent to traffic, pimping, enforcing, or in any other way supporting the activities of a trafficking operation is illegal. The law also prohibits and provides punishment for individuals who own, operate or work to support the operation of brothels associated with human trafficking. The minimum age for prostitution in Turkey is 18. The number of legal brothels has reportedly decreased under the ruling Justice and Development Party (AKP) which also governs most large cities, including Istanbul. Local experts do not believe legal brothels contribute substantially to TIP in Turkey (ref C, D).

1L. (SBU) The GOT did not report that any Turkish peacekeepers deployed abroad were engaged in or facilitated severe forms of trafficking or exploited victims of trafficking.

1M. (SBU) We do not have evidence suggesting Turkey is a

ANKARA 00000274 006 OF 006

source or destination country for organized child sex tourism, or that Turkish citizens travel to other countries to engage in child sex tourism. Turkish law severely punishes sexual abuse and/or trafficking of minors (see paras A and D).

Visit Ankara's Classified Web Site at
<http://www.intelink.sgov.gov/wiki/Portal:Turkey>

Jeffrey